

REMARKS

By the present Amendment, previously presented claim 27 is renumbered as claim 26. This leaves claims 10-26 pending in the application, with claim 10 being independent.

Objection to Drawings

The drawings are objected to for including reference characters 21, 23 and 25 in Fig. 1 that are not mentioned in the specification. To obviate this objection, the first full paragraph on page 7 of the entered substitute specification filed on June 30, 2006 is modified to add these reference characters with the description supported by the drawings and page 3 of that specification.

Since the specification is revised, no changes to the drawings are needed.

Rejection under 35 U.S.C. § 103

Independent claim 10 relates a floor carpet installation system comprising a carpet 1 and 3, a floor loopless material 21 and a micro-adhesive closing element 7. The carpet has a nap side forming its usable surface and has a backside formed of a carpet loopless material 5 opposite the nap side. The floor loopless material is fixable to a floor surface 25. The micro-adhesive closing element 7 has opposite carpet and floor surfaces, with each surface having protruding interlocking elements 11. Elements 11 on the carpet and floor surfaces of the closing element interlock with the carpet and floor loopless materials, respectively. The interlocking elements are configured as fingers with thicknesses 13 at their free ends. The interlocking elements on the carpet surface have different shapes, different dimensions and/or different relative adjacent spacings relative to the interlocking elements on the floor surface.

By forming the carpet insulation system in this manner, both the connection between the closing element and the carpet backside loopless material 5 and the connection between the closing element and the floor loopless material 21 are releasable. The differences between the interlocking elements on the carpet surface and on the floor surface provide different connection strengths at each of the respective interfaces to facilitate the desired removable.

Claims 10-14 and 19-26 stand rejected under 35 U.S.C. § 103 as being unpatentable over DE 195 32 685 to Leopold in view of DE 196 46 318 to Hammer, U.S. Patent No. 5,753,336 to Stull, U.S. Patent No. 6,298,624 to Pacione and EP 988 808 to Celliers. The Leopold patent is cited for a floor covering having a lower felt layer connected to an underlayer 4 comprising an upwards pointing surface with properties that allow it to engage the felt 2 on a floor covering 1 and being glued to the floor. The Hammer patent is cited for interlocking hooks in the form of a mushroom head with a top concave depression. The Stull patent is cited for the use of double-side underlayers for carpets. The Celliers patent is cited for the use of hook fastening materials having different hook shapes or dimensions to provide different peel strengths.

This rejection under 35 U.S.C. § 103 is improper since no evidence of record supports the contention that it would be obvious to provide different hook arrangements on the opposite sides of the closure element or anchor sheet. The only suggestion for providing the admittedly missing claimed features in the Leopold patent comes from the instant application which has a significant advantage resulting from the different hook arrangements, i.e., the different connection strengths at the two interfaces to facilitate the removal between the carpet and the closing element or between the closing element and the loopless material fixable to the floor.

The Leopold DE patent discloses a carpet installation system having an underlayer 4 glued to the floor surface 5. Underlayer 4 has a plurality of hook or mushroom formed

interlocking elements which extend upwardly from its upper surface, and engage a felt layer 2 attached to the undersurface of carpet 1. The felt layer 2 is fixed to the underside of carpet layer 1.

Since the Leopold underlayer 4 only has interlocking elements extending upwardly from its upper surface, it does not have or render obvious the use of a closing element in a carpet installation system having interlocking elements extending from each of the two opposite surfaces of the closing element. Particularly, it does not disclose a micro-adhesive closing element having different interlocking element configurations on each of its two opposite surfaces to provide different connections with two different loopless materials. In the present claimed invention, different removable connections are provided between the carpet and the adhesive closing element and between the adhesive closing element and the floor loopless material.

The German Hammer patent is only cited in connection with the micro-adhesive closing element having hooks with concave depressions in their tops. It is not cited relative to the above discussed Leopold DE patent deficiencies regarding the interlocking elements on both sides and regarding the different configurations on both sides of the adhesive closing element. Since the German Hemner patent is not shown to be pertinent to a carpet installation system as disclosed in the Leopold patent or involving the same problems, no adequate reason is articulated with rational underpinning to support the legal conclusion of obviousness, as required. The statements in the Office Action regarding a skilled worker's selection of "a known material on the basis of its intended use" and "for its inexpensiveness and its integration of said interlocking elements with a carrier material" constitute mere conclusions without rational underpinnings since these general statements would apply to any proposed combination and are not specific to the combination proposed in the rejection.

The Stull patent discloses a removable underlay 60 for rugs having a firm layer 16 with loop or needle punched material 62 on one side attachable to hook material 65 and with nibs 26 on an opposite side attachable to filaments 32' of carpet C'. While loop material 62 may be viewed as having interlocking elements, nibs do not constitute interlocking elements configured as fingers with thicknesses at their free ends. Thus, the Stull patent does not teach interlocking elements on opposite surfaces of a closing element, as claimed in this application.

The Pacione patent, in Fig. 31, discloses an anchor sheet module 219 with an upper layer 223 having hooks on its upper surface 220 and its lower surface 224. However, the hooks on the upper and lower surfaces appear to be identical. No portion of the Pacione patent is cited as disclosing that the hooks on the upper and lower surfaces have different shapes, dimensions or spacings as claimed.

The Celliers patent only teaches that hook shapes and dimensions can be varied to change various peel strengths. It does not disclose or render obvious the use of two different types of fastener elements on a single substrate, particularly on opposite sides of that substrate, as in the present claimed invention. At best, the Celliers patent would only suggest varying shapes and dimensions on both side of a substrate equally, but would not suggest different shapes and/or dimensions on opposite surfaces of the same substrate.

Claims 20-22 are alleged to be obviousness to one of ordinary skill in the art without any evidence. Without any supporting evidence, the rejection is untenable.

Claims 10-14 and 19-26 also stand rejected under 35 U.S.C. § 103as being unpatentable over the Pacione and Hammer patents when further considered in view of the Celliers patent. The Pacione patent is cited for a double-sided hook sheet. The Celliers is cited for using

different shapes and dimensions for different peel strengths. However, nothing suggests using different shapes and sizes on opposite sides of the same base, as noted above.

Claims 10-26 further stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,699,560 to Schulte in view of the Stull patent, Pacione patent and the EP patent to Celliers. Although the filing date of this application has been modified as set forth by the Examiner, the application is still entitled to the benefit of the International application filing date of September 22, 1998. Such date is well in advance of the July 31, 2000 effective date of the Schulte patent and of the issue date of that patent.

Thus, the Schulte patent does not constitute a reference under 35 U.S.C § 102/103. Moreover, the Schulte patent, even considered with the other cited patents, does not disclose or render obvious the use of projections on both sides of different dimensions to provide the different peel strengths for the reason set forth above.

When no reference discloses a feature of a claim relied on to distinguish the prior art, there can be no suggestion to modify the prior art to contain that feature. In re Civitello, 339 F.2d 243, 144, USPQ 10 (C.C.P.A. 1964). As stated in W. L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1551, 220 USPQ 303, 311 (Fed. Cir. 1983), there must be something in the teachings of the cited patents to suggest to one skilled in the art that the claimed invention would be obvious. Here, there is no teaching in the cited patents of the claimed interlocking elements of different spaces, dimensions or spacings on the opposite surfaces of the closing element. Thus, the rejection is not adequately supported by a clear factual basis, as required. In re Warner, 379 F.2d 1011, 154 USPQ 173 (C.C.P.A. 1967).

Accordingly, claim 10 is patentably distinguishable over the cited patents.

D. Dependent Claims are Further Distinguished

Claims 11-27, being dependent upon claim 10 are also allowable for the above reasons. Moreover, these dependent claims recite additional features further distinguishing them over the cited patents.

Claim 11 is further distinguished by the recited mushroom-shaped heads.

Claim 12 is further distinguished by the recited plate-shaped heads.

Claims 13 and 14 are further distinguished by the recited concave depressions.

Claims 15 and 16 are further distinguished by the recited adhesive in the depressions.

Claims 17 and 18 are further distinguished by the adhesive having an acrylate base.

Claim 19 is further distinguished by the loopless material being a felt.

Claim 20 is further distinguished by the loopless material being a fleece.

Claim 21 is further distinguished by the loopless material being a loose leno weave.

Claim 22 is further distinguished by the loopless material being a flat knit.

Claim 23 is further distinguished by the loopless material being a non-woven textile.

Claim 24 is further distinguished by the loopless material being a synthetic material.

Claim 25 is further distinguished by the loopless material being a needle punched felt.

Claim 26 is further distinguished by the loopless material being footstep-sound-absorbing properties.

In view of the foregoing claims 10-26 are allowable. Prompt and favorable action is solicited.

Respectfully submitted,

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